

**COMP**

JOHN B. SHOOK, ESQ.

Nevada Bar No. 5499

LYNN R. SHOEN, ESQ.

Nevada Bar No. 1197

SHOOK & STONE, CHTD.

710 South 4th Street

Las Vegas, NV 89101

CASE NO: A-22-857851-C

Department 26

DISTRICT COURT**CLARK COUNTY, NEVADA**

PHILIP ALEXANDER, individually,

Plaintiff,

Case No.:

Dept. No.:

vs.

COMPLAINT

AOSOM, LLC., Foreign Limited-Liability
Company; WALMART INC., a Foreign
Corporation; DOES I through X, inclusive;
and ROE BUSINESS ENTITIES I through X,
inclusive

Defendants.

Plaintiff PHILIP ALEXANDER by and through his counsels JOHN B. SHOOK, ESQ. and
LYNN R. SHOEN, ESQ. of SHOOK & STONE, CHTD. hereby files the following Complaint and
alleges as follows:

GENERAL ALLEGATIONS

1. At all times relevant hereto, the Plaintiff, PHILIP ALEXANDER (hereinafter, "Plaintiff"),
is and was a resident of the State of Nevada
2. At all times relevant hereto and to the best of Plaintiff's knowledge, Defendant, AOSOM,
LLC, was and still is a Foreign Limited-Liability Company authorized to do business in State of
Nevada.

1 3. At all times relevant hereto and to the best of Plaintiff's knowledge, Defendant
2 WALMART, INC. was and is a Foreign Corporation authorized to do business in the State of
3 Nevada.

4 4. The true names and capacities, whether individual, corporate, associate, or otherwise of
5 DOES I through X and/or ROE BUSINESS ENTITIES I through X, inclusive, are unknown to
6 Plaintiff who, therefore, sues said Defendants by such fictitious names. The Plaintiff is informed
7 and believes and thereupon alleges, that the Defendants, designated herein as a DOE and/or ROE
8 BUSINESS ENTITIES, are any one of the following:
9

10 (a) A party responsible in some manner for the events and happenings herein referred
11 to, and in some manner caused the injuries and damages proximately thereby to the
12 Plaintiff as herein alleged;

13 (b) Parties that were the agents, servants, employees, and contractors of the Defendants,
14 and each of them, acting within the course and scope of their agency, employment,
15 or contract;

16 (c) Parties that managed, operated, secured, inspected, repaired, maintained, entrusted
17 and/or were responsible for the equipment at the time of this incident;

18 (d) Parties that were responsible for the supervision of one or more of the Defendants
19 herein; and
20

21 (e) Parties that have assumed or retained the liabilities of any of the Defendant's
22 equipment by virtue of an agreement, sale, transfer or otherwise.

23 (f) Parties who were responsible for the design, manufacture, construction, assembly,
24 testing, labeling, distribution, marketing, and sale of the subject equipment.
25

26 The Plaintiff specifically complains and alleges one or more causes of action against these
27 parties. However, as of the filing of this Complaint, the Plaintiff is unaware as to whether those
28 entities are individuals, partnerships, limited partnerships, corporations, associations of individuals

1 and business, or some other form of business ownership. When the same has been ascertained by
2 the Plaintiff, together with the appropriate charging allegations, the Plaintiff will ask leave of this
3 Court to amend this Complaint to insert the true names and capacities of said Defendants, DOES I
4 through X and/or ROE BUSINESS ENTITIES I through X, inclusive, and to join such in this
5 action.

6 5. Whenever it is alleged in this Complaint that a Defendant did any act or thing, it is meant that
7 such Defendant's officers, agents, servants, employees, or representatives did such act or thing and
8 at the time such act or thing was done, it was done. with full authorization or ratification of such
9 Defendant or was done in the normal and routine course and scope of business, or with the actual,
10 apparent and/or implied authority of such Defendant's officers, agents, servants, employees, or
11 representatives. Specifically, Defendants are liable for the actions of its officers, agents, servants,
12 employees, and representative. The defendants, and each of them, were at all times relevant to this
13 action, the agents of every other defendant.
14

15 6. All of the Defendants as named herein are jointly and severally liable to Plaintiffs for
16 Plaintiffs' damages.

17 7. Plaintiffs are informed and believe, and thereupon allege, that Defendants, and each of them,
18 jointly and in concert undertook to perform the acts as alleged herein, that Defendants and each of
19 them had full knowledge of the acts of each co-Defendant as alleged herein, and that each
20 Defendant authorized or subsequently ratified the acts of each co-Defendant as alleged herein,
21 making each co-Defendant an agent of the other Defendants and making each Defendant jointly
22 responsible and liable for the acts and omissions of each co-Defendant as alleged herein.
23

24 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

25 8. At all times material to this Complaint, the acts and omissions giving rise to this
26 action occurred in Clark County, Nevada.
27
28

11. Prior to April 20, 2021, Plaintiff purchased home exercise equipment manufactured and designed by Defendant AOSOM, LLC from Defendant WALMART, INC. via the online storefront located at www.walmart.com.

13. As so used, the subject equipment was defective, unfit, and unreasonably dangerous for its foreseeable use in that the seat became broke or otherwise because dislodged, causing Plaintiff to suffer serious bodily injury.

14. The Plaintiff hereby repeats and realleges each and every fact set forth in the preceding paragraphs, as though set forth in full at this time.

16. At all times relevant herein, Defendants deviated from principles of due care, deviated from the standard of care, and were otherwise negligent by improperly designing, manufacturing, inspecting, testing, and otherwise determining that the home exercise equipment was safe for consumer use.

1 17. At all times relevant herein, Defendants knew or should have known that the home exercise
2 equipment was unreasonably dangerous and defective when introduced into the stream of
3 commerce.

4 18. Defendants breached their duty to Plaintiff by manufacturing, designing, and then selling to
5 Plaintiff home exercise equipment which broke and caused Plaintiff injuries and bodily harm.

6 19. The product defects alleged above were a substantial contributing cause of the injuries and
7 damages suffered by Plaintiff.

8 20. The injuries and damages suffered by Plaintiff were the reasonably foreseeable result of
9 Defendants' negligence.

10 21. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander sustained
11 devastating permanent physical injuries, and required medical care for the physical injuries
12 suffered.

13 22. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander suffered lost
14 wages.

15 23. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander has suffered
16 damages in excess of fifteen thousand dollars (\$15,000.00).

17 24. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander has been
18 required to retain the services of an attorney and is entitled to an award of attorney's fees and costs.

19 **SECOND CAUSE OF ACTION**
20 **STRICT PRODUCTS LIABILITY – DESIGN AND MANUFACTURE**
Against All Defendants

21 25. The Plaintiff hereby repeats and realleges each and every fact set forth in the preceding
22 paragraphs, as though set forth in full at this time.

23 26. Defendant AOSOM, LLC is in the business of designing, engineering, manufacturing,
24 producing, testing, distributing, marketing, selling, repairing, owning, managing, inspecting,
25 controlling, and/or otherwise maintaining home exercise equipment.

26 27. Defendant WALMART, INC is in the business of designing, distributing, marketing,
27 selling, repairing, owning, managing, inspecting, controlling, and/or otherwise maintaining home
28 exercise equipment.

28. Upon information and belief, part or all of the home exercise equipment that caused injury to Plaintiff when it malfunctioned and broke was hazardous and dangerous, and was not, in fact, fit to be used in the manner intended and was not of merchantable quality, in that, and not by way of limitation, the ordinary use of home exercise equipment, created an unreasonable risk of serious bodily injury to its foreseeable users and to the general public. The subject home exercise equipment was placed on the market in a defective condition so as to be unreasonably dangerous to the Plaintiff or other users.

29. Upon, information and belief, Defendants AOSOM, LLC and WALMART, INC. designed, engineered, produced, manufactured, tested, distributed, marketed, sold, repaired, installed, owned, managed, operated, inspected, controlled, maintained, rented and/or otherwise placed the defective home exercise equipment, involved in the aforementioned incident on the market.

30. Upon information and belief, such defect or defects existed when the home exercise equipment left the possessions and/or control of Defendant.

31. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander sustained devastating permanent physical injuries, and required medical care for the physical injuries suffered.

32. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander sustained lost wages.

33. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander has suffered damages in excess of fifteen thousand dollars (\$15,000.00).

34. As a direct and proximate result of the aforesaid defect, Plaintiff Alexander has been required to retain the services of an attorney and is entitled to an award of attorney's fees and costs.

THIRD CAUSE OF ACTION
STRICT PRODUCTS LIABILITY – FAILURE TO WARN
Against All Defendants

35. The Plaintiff hereby repeats and realleges each and every fact set forth in the preceding paragraphs, as though set forth in full at this time.

36. Upon information and belief, the home exercise equipment involved in the subject incident was defective at the time of its design, manufacture, development, production, testing, inspection,

1 endorsement, prescription, sale, distribution, and/or rental, in that, and not by way of limitation,
2 said product and its warnings, instructions and directions failed to warn of the dangerous
3 propensities of said product, which risks were known or reasonably scientifically knowable to the
4 Defendant.

5 37. Defendants knew, or should have known, of the defective condition, characteristics and
6 risks associated therewith, as previously set forth herein.

7 38. At all times herein mentioned, the home exercise equipment involved in the subject incident
8 was defective, and Defendants knew that the products were to be used by the user without
9 inspection for defects therein, and Defendants failed to warn about the defective condition,
10 characteristics and risks associated with the product.

11 39. As a result of the defect in Defendants' product, Plaintiff sustained devastating permanent
12 physical injuries, and required medical care for the physical injuries suffered.

13 40. As a result of the defect in Defendants' product, Plaintiff suffered lost wages.

14 41. As a result of the defect in Defendants' product, Plaintiff has suffered damages in excess of
15 fifteen thousand dollars (\$15,000.00).

16 42. As a direct and proximate result of Defendants' actions, Plaintiff has been required to retain
17 the services of an attorney and is entitled to an award of attorney's fees and costs.

18 WHEREFORE, Plaintiff PHILIP ALEXANDER expressly reserving his right to amend
19 this Complaint to set forth causes of action and/or items of damages not yet known, prays for
20 judgment for each of these claims for relief as follows:

- 21 1. General damages in an amount in excess of \$15,000.00;
- 22 2. Medical and incidental expenses incurred and to be incurred;
- 23 3. Damages for lost past and future household services;

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28 ///

4. Damages for past and future lost wages;
5. Cost of suit; pre-judgment interest; post-judgment interest; attorney's fees; and
6. For such other and further relief as is just and proper

DATED this 2nd day of September, 2022.

SHOOK & STONE, CHTD.

/s/ John Shook, Esq.

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